UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/446,431	05/22/95	HARVEY J	5634.150

LM61/1223

THOMAS J SCOTT JR
HOWREY AND SIMON
1299 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

EXAMINER	
VU, H	
ART UNIT	**PAPER NUMBER**
2733	

DATE MAILED: 12/23/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/446,431	Applicant(s) Harvey et al.
	Examiner Huy Vu	Group Art Unit 2733

☒ Responsive to communication(s) filed on *Aug 14, 1997* .

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *3-46* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *3-46* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

1. This Office Action is responsive to the amendment(s) filed August 14, 1997.

DOUBLE PATENTING V.S. PATENTS

2. After reviewing the restriction requirement under 35 U.S.C. 121 in US Patent 5,233,654 it is believed that the claims of the instant application are subject to a double patenting analysis against US Patent 5,233,654 and US Patent 5,335,277.

3. In view of further analysis and applicant's arguments, the rejection of the claims in the instant application under double patenting based on the broad analysis of *In re Schneller* as set forth in paragraphs 7-10 of the previous Office Action has been withdrawn.

DOUBLE PATENTING BETWEEN APPLICATIONS

4. Conflicts exist between claims of the following related co-pending applications which includes the present application:

#	**Ser. No.**	#	**Ser. No.**	#	**Ser. No.**
1	397371	2	397582	3	397636
4	435757	5	435758	6	437044
7	437045	8	437629	9	437635
10	437791	11	437819	12	437864
13	437887	14	437937	15	438011

16	438206	17	438216	18	438659
19	439668	20	439670	21	440657
22	440837	23	441027	24	441033
25	441575	26	441577	27	441701
28	441749	29	441821	30	441880
31	441942	32	441996	33	442165
34	442327	35	442335	36	442369
37	442383	38	442505	39	442507
40	444643	41	444756	42	444757
43	444758	44	444781	45	444786
46	444787	47	444788	48	444887
49	445045	50	445054	51	445290
52	445294	53	445296	54	445328
55	446123	56	446124	57	446429
58	446430	59	446431	60	446432
61	446494	62	446553	63	446579
64	447380	65	447414	66	447415
67	447416	68	447446	69	447447
70	447448	71	447449	72	447496
73	447502	74	447529	75	447611
76	447621	77	447679	78	447711

79	447712	80	447724	81	447726
82	447826	83	447908	84	447938
85	447974	86	447977	87	448099
88	448116	89	448141	90	448143
91	448175	92	448251	93	448309
94	448326	95	448643	96	448644
97	448662	98	448667	99	448794
100	448810	101	448833	102	448915
103	448916	104	448917	105	448976
106	448977	107	448978	108	448979
109	449097	110	449110	111	449248
112	449263	113	449281	114	449291
115	449302	116	449351	117	449369
118	449411	119	449413	120	449523
121	449530	122	449531	123	449532
124	449652	125	449697	126	449702
127	449717	128	449718	129	449798
130	449800	131	449829	132	449867
133	449901	134	450680	135	451203
136	451377	137	451496	138	451746
139	452395	140	458566	141	458699

142	458760	143	459216	144	459217
145	459218	146	459506	147	459507
148	459521	149	459522	150	459788
151	460043	152	460081	153	460085
154	460120	155	460187	156	460240
157	460256	158	460274	159	460387
160	460394	161	460401	162	460556
163	460557	164	460591	165	460592
166	460634	167	460642	168	460668
169	460677	170	460711	171	460713
172	460743	173	460765	174	460766
175	460770	176	460793	177	460817
178	466887	179	466888	180	466890
181	466894	182	467045	183	467904
184	468044	185	468323	186	468324
187	468641	188	468736	189	468994
190	469056	191	469059	192	469078
193	469103	194	469106	195	469107
196	469108	197	469109	198	469355
199	469496	200	469517	201	469612
202	469623	203	469624	204	469626

205	470051	206	470052	207	470053
208	470054	209	470236	210	470447
211	470448	212	470476	213	470570
214	470571	215	471024	216	471191
217	471238	218	471239	219	471240
220	472066	221	472399	222	472462
223	472980	224	473213	225	473224
226	473484	227	473927	228	473996
229	473997	230	473998	231	473999
232	474119	233	474139	234	474145
235	474146	236	474147	237	474496
238	474674	239	474963	240	474964
241	475341	242	475342	243	477547
244	477564	245	477570	246	477660
247	477711	248	477712	249	477805
250	477955	251	478044	252	478107
253	478544	254	478633	255	478767
256	478794	257	478858	258	478864
259	478908	260	479042	261	479215
262	479216	263	479217	264	479374
265	479375	266	479414	267	479523

268	479524	269	479667	270	480059
271	480060	272	480383	273	480392
274	480740	275	481074	276	482573
277	482574	278	482857	279	483054
280	483169	281	483174	282	483269
283	483980	284	484275	285	484276
286	484858	287	484865	288	485282
289	485283	290	485507	291	485775
292	486258	293	486259	294	486265
295	486266	296	486297	297	487155
298	487397	299	487408	300	487410
301	487411	302	487428	303	487506
304	487516	305	487526	306	487536
307	487546	308	487556	309	487565
310	487649	311	487851	312	487895
313	487980	314	487981	315	487982
316	487984	317	488032	318	488058
319	488378	320	488383	321	488436
322	488438	323	488439	324	488619
325	488620	326	498002	327	511491
328	485773	329	113329		

5. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. The attached Appendix provides clear evidence that such conflicting claims exist between the 329 related co-pending applications identified above. However, an analysis of all claims in the 329 related co-pending applications would be an extreme burden on the Office requiring millions of claim comparisons.

In order to resolve the conflict between applications, applicant is required to either:

(1) file terminal disclaimers in each of the related 329 applications terminally disclaiming each of the other 329 applications, or;

(2) provide an affidavit attesting to the fact that all claims in the 329 applications have been reviewed by applicant and that no conflicting claims exists between the applications. Applicant should provide all relevant factual information including the specific steps taken to insure that no conflicting claims exist between the applications, or;

(3) resolve all conflicts between claims in the above identified 329 applications by identifying how all the claims in the instant application are distinct and separate inventions from all the claims in the above identified 329 applications (note: the five examples in the attached Appendix are merely illustrative of the overall problem. Only correcting the five identified conflicts would not satisfy the requirement).

Failure to comply with the above requirement will result in abandonment of the application.

INFORMATION DISCLOSURE STATEMENTS

6. Receipt is acknowledged of applicant's Information Disclosure Statements filed April 7, 1997. In view of the unusually large number of references cited in the instant application (approximately 2,200 originally and 645 in the subsequent IDS) and the failure of applicant to point out why such a large number of references is warranted, these references have been considered in accordance with 37 C.F.R. 1.97 and 1.98 to the best ability by the examiner with the time and resources available.

The foreign language references cited therein where there is no statement of relevance or no translation are not in compliance with 37 C.F.R. 1.98 and have not been considered. Numerous references listed in the IDS are subsequent to applicant's latest effective filing date of 9/11/87, therefore, the relevancy of these references is unclear. Also cited are numerous references that are apparently unrelated to the subject matter of the instant invention such as: US Patent # 33,189 directed toward a beehive, GB 1565319 directed toward a chemical compound, a cover sheet with only the word "ZING", a computer printout from a library search with the words "LST" on it and a page of business cards including that of co-inventor James Cuddihy, among others. The relevancy of these references cannot be ascertained. Furthermore, there are several database search results listed in foreign languages (such as German) which list only the title and

document information; no copy has been provided, therefore, these references have not been considered.

CLAIM REJECTIONS - 35 U.S.C. § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

8. Claims 3-46 are rejected under 35 U.S.C. 102(a) as being anticipated by Campbell et al (hereinafter referred to as Campbell) (USP 4536791).

Regarding claim 3, Campbell teaches the step of receiving an information transmission and passing some of the information transmission to a computer (see tuner 106 for receiving and passing information transmission), the step of detecting an instruct-to-select signal (see control data in figure 11), the step of processing data transmission and selecting a plurality of subscriber data (see subscriber ID codes and subscriber enable code in figure 11), the step of storing data (see col. 10, lines 5-7), the step of receiving a mass medium program and outputting (see col. 16, lines 25-38), the step of selecting a stored datum to output (see col. 17, lines 21-28), and the step

of outputting a simultaneous presentation of the program and the selected datum (see col. 17, line 28-31).

Regarding claim 4, Campbell teaches the step of programming (see microprocessor 410 in figure 7).

Regarding claim 5, Campbell teaches the step of inputting a subscriber command and detecting a command from a remote station (see col. 16, lines 25-34).

Regarding claim 6, in Campbell's system, the transmitted programs are the TV programs. See col. 4, lines 24-48.

Regarding claim 7, Campbell teaches the step of selecting a text data to be displayed in response to a user's input. See col. 17, lines 21-31. The subscriber station is programmed to process at least one code, shown in figure 11, which is transmitted from the head end station.

Regarding claim 8, Campbell teaches the step of processing data at the computer in response to an instruct signal from the programming source (see col. 12, line 58 to col. 16, line 38) and the step of programming the receiver station to identify an instruct signal (see one of the comparing step in figure 12).

Regarding claim 9, Campbell teaches the step of storing data occurs before the step of receiving programs (see col. 12, line 58 to col. 16, line 38 and col. 17, lines 50-64).

Regarding claim 10, Campbell teaches the step of generating and storing data (see col. 10, lines 3-7).

Regarding claim 11, Campbell's text data includes stock market quotations (price).

Regarding claim 12, Campbell teaches the step of outputting stored datum in one of said series of images and in response to a second instruct signal (see col. 18, lines 50 to col. 19, line 45 and col. 17, lines 21-31).

Regarding claim 13, Campbell teaches the step of receiving at a transmitter station some downloadable code which is effective at a receiver station to select a subscriber datum for simultaneous or sequential presentation with a mass medium program (see control data including subscriber enable word 210 being received by HVP 52 in figure 2 as the channel enable code 216 and text enable code 219 of the subscriber enable word are used at the subscriber station to select and enable a teletext channel for simultaneous or sequential presentation with the TV program), the step of transferring the downloadable code to a transmitter (see data loaded video signal comprising subscriber enable word 210 being transferred from HVP 52 to combiner 20), the step of receiving one control signal at said transmitter station (see channel control word 200 being received by HVP 52), wherein said control signal operates to execute the downloadable code (see the use the channel control word 200 at the subscriber station to perform a comparison of the subscriber enable word with the channel control word in order to determine whether the user is authorized to access the channel/program in col. 15, lines 16-21, 30-39) and the step of transferring the control signal to the transmitter (see data loaded video signal comprising the channel control word being transferred from HVP 52 to combiner 20).

Regarding claim 14, control data is embedded in the TV signals. See col. 6, lines 29-31.

Regarding claim 15, TV programs is displayed at user TV 36 and control data controls the subscriber station's text/graphic generator (processor) to output video images of the TV programs or text data. See screen control data and scrambling code of the control data.

Regarding claim 16, the control data incorporates the scrambling codes (some of the downloadable codes).

Regarding claim 17, Campbell teaches steps of identifying a resource (see the user's identifying and selecting a channel to watch in col. 16, lines 25-38), monitoring resource, storing the record of the use of said resource and communicating information evidencing the use of said resource to a remote station (see the channel monitoring for test marketing purposes in col. 18, lines 13-29).

Regarding claim 18, the channel tuned and viewed by the user is the evidence information. See col. 18, lines 13-29.

Regarding claim 19, Campbell teaches the step of receiving a unit of mass medium programming to be transmitted by the remote intermediate transmitter station (see the reception of data loaded video by the standard head end processor 56 in figure 2), the step of delivering the unit of mass medium programming to the transmitter (see the delivering of the data loaded video to the head end combiner 20 in figure 2) wherein the unit of mass medium programming contains an instruct signal which is effective at the receiver station to select a subscriber datum for simultaneous or sequential presentation with a mass medium program (the data loaded video signal comprises control data including subscriber enable word 210 and/or text identification code 252 for enabling channel/text selection for simultaneous or sequential presentation with TV

program), the step of receiving one control signal which operates at the remote intermediate mass medium programming transmitter station to control the communication of the unit of mass medium programming (see the reception of the sync signal 85 which operates at the head end station of control the communication of the data loaded video in figure 5) , and the step of transmitting one control signal to the transmitter before a specific time (see transmission signal which includes the sync signal from processor 56 to combiner 20 before a specific time, e.g., broadcast time, in figures 2 and 5).

Regarding claim 20, the sync signal is embedded in the base band video signal before being transmitted to the head end station and extracted there. See figure 5.

Regarding claim 21, the sync signal is a code that identify the beginning of the video signal. Campbell also teaches the step of transmitting a schedule (see the local operator input from the operator console 62 as the operator can control the time of transmission, in figures 2 and 3).

Regarding claim 22, Campbell teaches the step of receiving a code designating a product at the transmitter station (see text data being received by HVP 52 in figure 2), the step of receiving at the transmitter station an instruct signal (see control data including subscriber enable word 210 and/or text identification code 252 for enabling channel/text selection for simultaneous or sequential presentation with TV program) and the step of transmitting said code and said instruct signal (see transmission signal which includes the sync signal, text data and control data including subscriber enable word and/or text identification code).

Regarding claim 23, the text identification code 252 and text data is embedded in the transmission signal which contains TV signals.

Regarding claim 24, the text identification code is used to execute the identification procedure at the subscriber station.

Regarding claim 25, Campbell teaches the display of programming at the receiver station (see user TV 36), the display of text information to supplement TV programming (see col. 17, lines 20-31) and the step of communicating to the transmitter station an instruct signal (see control data from PCS 50 to HVP 52 in figure 2).

Regarding claim 26, TV programming can be full channel text (see col. 18, lines 50 to col. 19, line 45).

Regarding claim 27, Campbell teaches the step of receiving an instruct signal at a transmitter station (see control data signal including text enable code 219 being received by HVP 52 in figure 2), the step of transferring the instruct signal from the transmitter station (see data loaded video 44, which comprise control data, being transferred from HVP 52 to combiner 20 in figure 2), receiving one control signal at the transmitter station (see control data including subscriber ID code 214 being received by PCS 52 in figure 2), the step of transferring the control signal to a transmitter (see data loaded video 44, which comprise control data, being transferred from HVP 52 to combiner 20).

Regarding claim 28, both the text enable code and the subscriber ID code are embedded in the VI portion of the TV signal. See col. 6, lines 29-31.

Regarding claim 29, the delay due a physical distance between tow subscriber stations inherently causes the two stations to receives the control signals from the head end station asynchronously.

Regarding claim 30, in Campbell's system, video switch 98 communicates signals selectively from the modulator 56 (receiver) and data formatter 88 (recorder). See figure 2 and 5. Campbell's system further includes PCS for detecting a input from a local operator to instruct the communication. See figure 2.

Regarding claim 31, Campbell's system includes timing signal generator 94 which control switch 98 to communicate a selected signal. See figure 5. Campbell's system further includes PCS for detecting a input from a local operator to instruct the communication. See figure 2.

Regarding claim 32, subscriber station further receives an user channel input which cause the subscriber station to tune to the selected channel. See col. 16, lines 25-38 and col. 17, lines 21-41.

Regarding claim 33, control data further includes channel enable code (downloadable code). See figure 11.

Regarding claim 34, the subscriber station comprises data extractor which is adapted to detect the presence of control data. See figure 6.

Regarding claim 35, Campbell teaches the step of displaying TV program (see col. 16, lines 25-34), the step of prompting the subscriber whether the subscriber wants the mass medium programming (see col. 18, lines 38-40), the step of receiving a reply from the subscriber (see col. 18, lines 40-42), the step of processing the reply and selecting a code designating the mass medium program and communicating the selected code to a remote site (see col. 18, 40-44), the step of assembling a signal unit which is effective to select a subscriber datum for simultaneous presentation with a mass medium program (see col. 18, 42-46), the step of delivering said signal

unit at the interactive TV viewing apparatus (see col. 18, lines 42-46) and the step of selecting a subscriber datum for simultaneous presentation with a mass medium program on the basis of said signal unit (see col. 9, lines 36-39). It is noted that the claimed step of assembling a first signal reads on Campbell's generation of text interactive signal at the network and the claimed step of outputting at least one subscriber datum for simultaneous or sequential text presentation with mass medium programming on the basis of the first signal reads on Campbell's generation of control data, subscriber enable word and text identification code for enabling channel/text (subscriber datum) selection for simultaneous or sequential text presentation with TV program.

Regarding claim 36, text data is embedded in the vertical interval of the TV signals.

Regarding claim 37, Campbell teaches the steps of storing and communicating the information evidencing the usage of the TV program (see col. 17, lines 61-64 and col. 18, lines 13-29), and the step of selecting evidence information that identifies a channel (see col. 18, lines 13-29).

Regarding claim 38, in Campbell's system, information transmission also includes scrambling code (executable code). Campbell further teaches the step of communicating the executable code to the processor and performing the reception of a signal containing the mass medium programming (see the descrambling control signal form the converter control unit 104 to video descrambler 116 in figure 6).

Regarding claim 39, Campbell teaches the step of display a program that promotes a specific fashion of presenting information to supplement mass medium programming (see col. 20, lines 4 to col. 21, line 63), the step of prompting the subscriber whether the subscriber wants the

mass medium programming (see col. 18, lines 38-40), the step of receiving a reply from the subscriber (see col. 18, lines 40-42), the step of delivering instructions in response to the step of reply (see col. 18, 40-44), the step of processing the reply and selecting a code designating the mass medium program and communicating the selected code to a remote site (see col. 18, 40-44), the step of presenting on the basis of said instructions (see col. 9, lines 36-39).

Regarding claim 40, text data and control data is embedded in the vertical interval of the TV signals.

Regarding claim 41, Campbell teaches the steps of storing and communicating the information evidencing the usage of the TV program (see col. 17, lines 61-64 and col. 18, lines 13-29), and the step of selecting evidence information that identifies a channel (see col. 18, lines 13-29).

Regarding claim 42, in Campbell's system, information transmission also includes scrambling code (executable code). Campbell further teaches the step of communicating the executable code to the processor and performing the reception of a signal containing the mass medium programming (see the descrambling control signal form the converter control unit 104 to video descrambler 116 in figure 6).

Regarding claim 43, Campbell teaches the step of detecting the presence of a broadcast control signal (see timer/decoder 414 which detects control data in figure 7), the step of inputting an instruct-to-react signal (see col. 17, lines 20-24), the step of controlling the processor to output specific information (see col. 17, lines 24-28), and the step of selecting a datum

(channel/text) for simultaneous presentation with a mass medium program (see user's selection of channel/text for simultaneous or sequential text presentation with TV program).

Regarding claim 44, a buffer is inherent in user's keyboard 146. Input signals are input directly to microprocessor 410. See figure 7.

Regarding 45, microprocessor 410 process a channel code (datum) which designate a TV channel. Tuner 106 is tuned to a channel having the channel code and being selected by the user input (controlling a tuner to tune a receiver to receive a TV channel designated by the datum). See col. 17, lines 21-31.

Regarding claim 46, microprocessor 410 process a channel code (datum) which designate a TV channel. Tuner 106 is tuned to a channel having the channel code and being selected by the user input (controlling a tuner to tune a receiver to receive one specific channel designated by the processed datum). See col. 16, lines 25-34 and col. 17, lines 21-31.

9. Applicant's arguments filed August 14, 1997 have been fully considered but they are not persuasive.

In response to Applicant's argument that Campbell is not a prior art for purpose of art rejection under 35 U.S.C. 102(e), it is noted that the parent application (SN 135,987) of Campbell '791 patent was filed on November 27, 1981 which is clearly earlier than the effective filing date of the present application. Furthermore, PCT publication date of the Campbell patent (October 15, 1981) is also earlier than the effective filing date of the present invention. Thus, the PCT

publication of the Campbell '791 patent can also be used for the purpose of art rejection under 35 U.S.C. 102(a) if necessary.

With respect to claim 3, in response to Applicant's argument that does not include certain features of Applicant's invention, the limitations on which the Applicant relies (i.e., receiver station receives a receiver-specific programming presentation and selects at least one stored subscriber datum with independent receiver specific relevance at each receiver station) are not stated in the claims. Therefore, it is irrelevant whether the reference includes those features or not.

With respect to claim 13, in response to Applicant's argument that does not include certain features of Applicant's invention, the limitations on which the Applicant relies (i.e., the subscriber datum of the present invention has an independent receiver-specific relevance at each receiver station) are not stated in the claims. Therefore, it is irrelevant whether the reference includes those features or not.

With respect to claim 13, in response to Applicant's argument that Campbell does not include certain features of Applicant's invention, the limitations on which the Applicant relies (i.e., the subscriber datum of the present invention has an independent receiver-specific relevance at each receiver station) are not stated in the claims. Therefore, it is irrelevant whether the reference includes those features or not. Besides, rule 37 CFR 1.111(b) requires that the Applicant must **"distinctly and specifically point out errors"** in examiner's action. Also argument and conclusions of attorney cannot take place of evidence (In re Cole, 140 USPQ 230; In re Schulze, 145 USPQ 716; Meitzner v. Mindick, 193 USPQ 17).

With respect to claim 17, in response to Applicant's argument that Campbell does not teach the step of identifying a resource to select, it is noted that the claimed resource reads on Campbell's channel. Thus, the claimed step of identifying a resource to select for simultaneous or sequential presentation with mass programming reads on Campbell's identification and selection of channels to watch by a user. In response to Applicant's argument that Campbell does not disclose a control signal that selects at least one subscriber datum (as recited in substep (1)(b)), it is noted that substeps (1)(a) and (1)(b) are in alternative form, namely, only one is required. Since substep (1)(a) is already covers by Campbell, it is irrelevant whether or not Campbell includes substep (1)(b).

With respect to claims 19, 22 and 27, contrary to Applicant's argument that Campbell's control data, subscriber enable word and text identification code do not anticipate the instruct signal of claim 19, Campbell's control data, subscriber enable word and text identification code for enabling channel/text (subscriber datum) selection for simultaneous or sequential text presentation with TV program clearly anticipate the instruct signal of claim 19 as broadly recited.

With respect to claim 35, the claimed step of assembling a first signal reads on Campbell's generation of text interactive signal at the network and the claimed step of outputting at least one subscriber datum for simultaneous or sequential text presentation with mass medium programming on the basis of the first signal reads on Campbell's generation of control data, subscriber enable word and text identification code for enabling channel/text (subscriber datum) selection for simultaneous or sequential text presentation with TV program.

With respect to claim 39, in response to Applicant's argument that Campbell does not include certain features of Applicant's invention, the limitations on which the Applicant relies (i.e., the step of assembling or selecting) are not stated in the claims. Therefore, it is irrelevant whether the reference includes those features or not.

With respect to claim 43, in response to Applicant's argument that Campbell does not teach the "at least one datum" for simultaneous or sequential text presentation with mass medium programming, it is noted that the claimed "at least one datum" reads on channel/text information selected by a user for simultaneous or sequential text presentation with TV program.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any response to this final action should be mailed to:

Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications; please mark "EXPEDITED PROCEDURE")

Or:

(703) 308-5430 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D. Vu whose telephone number is (703) 308-6602. The examiner can normally be reached on Tuesday - Friday from 8:00 a.m. to 5:30 p.m. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (703) 305-4366.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Huy D. Vu
Patent Examiner
Group 2600

December 14, 1997

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER